

REMARKS/ARGUMENTS

The Rejections Under 35 U.S.C Section 102 (a) and (b)

The Examiner has rejected Claims 1-3, 7-11 and 18 under 35 U.S.C. Section 102(a) as being anticipated by Ito et al. and the Examiner has rejected Claims 1-3, 7-11 and 18 under 35 U.S.C. Section 102(b) as being anticipated by; (1) Rosowsky et al., (2) Gortlitz et al., (3) Watanabe et al. (4) Umeda et al., (5) El-Rayyes et al., (6) Kandeel et al., (7) Burger et al., (8) Augustin et al., (9) Sengupta and (10) Demerac et al. (in Australia Journal of Chemistry 1972, 25(12), 2651-7).

The Applicants have made amendments to the genus description in Claim 1 to avoid all the above anticipating references.

As per the amended genus description, the groups from which R_2 may now be selected do not include C_{1-8} alkylthio or $NR_{24}R_{25}$. The Applicants believe that these two amendments to the claimed genus eliminate the anticipation by Ito, Rosowsky, Gortlitz, Umeda, Kandeel, Augustin and Sengupta.

Furthermore, as amended, X can no longer be CH_2 . The Applicants believes that this amendment eliminates the anticipation by El-Rayyes and Burger.

Furthermore, as amended R_4 can not be methyl. Applicants believe that this amendment eliminates the anticipation by Watanabe.

Applicants have reviewed the Demerac reference (Australian Journal of Chemistry 1972, 25(12), 2651-7) and note that this reference only discloses compounds with a methyl or a halomethyl at the top of the pyrimidin ring. This is the equivalent of R_2 in our formula. Therefore, Applicants have amended Claim 1 so that R_2 can be selected from optionally substituted C_2-C_8 alkyl instead of (unrestricted) optionally substituted alkyl. Applicants believe that this removes the Demerac reference as an anticipation.

Therefore, Applicants respectfully request that the rejections under 35 U.S.C. sections 102(a) and (b) be withdrawn.

The Rejections Under 35 U.S.C. Section 103(a)

The Examiner has also rejected Claims 1-3, 7-11 and 18 under 35 U.S.C. 103(a) as being unpatentable over Ito et al., Watanabe et al., Umeda et al., El-Rayyes et al., and Augustin et al.

The Applicants believe that the rejection over Ito et al. should be resolved by the amendments made above to Claim 1. With this amendment none of the specifically exemplified compounds shown can be made since R_2 can now not be C_{1-8} alkylthio or $NR_{24}R_{25}$.

The compounds disclosed by Watanabe have intended utility as photoreceptors. Thus there is no teaching, suggestion or expectation to one of skill in the art that these compounds would have the same or a similar utility as the compounds of the present invention i.e. as pharmaceuticals for use in humans.

The compounds disclosed by Umeda have intended utility as fungicides. There is no teaching, suggestion or expectation to one of skill in the art that structurally similar compound would have utility as pharmaceuticals to treat neurodegenerative diseases and movement disorders in humans.

The compounds disclosed by El-Rayyes all have a -CH₂- group at the position of X in the genus of the present invention. The genus description in Claim 1 has now been amended so that X cannot be - CH₂ -. Furthermore there is no teaching or suggestion in El-Rayyes that the disclosed compounds would have utility as pharmaceuticals for human use.

Finally with regard to Augustin the amended genus now no longer includes compounds where R₂ can be C₁₋₈ alkylthio and the exemplified compounds from Augustin both have SMe at this position. Furthermore Augustin contains no teaching or suggestion to modify disclosed compounds to produce pharmaceutical for treatment of disease in humans.

Therefore the Applicants respectfully request that the rejection under 25 U.S.C. 103(a) be withdrawn.

The Double Patenting Rejections

The Examiner has provisionally rejected Claim 8 under 35 U.S.C. 101 as a statutory type double patenting rejection as claiming the same invention as that of claim 5 of copending application No. 11/170,484.

In fact the Applicants now realize that an error was made when application No. 11/170,484 was filed and claims 4-8 of that application are identical to claims 7-11 of the instant application. These five species claims all belong in the present application and will be removed from the application No. 11/170,484 during the prosecution of that application.

Therefore, the applicants respectfully request that the Examiner withdraw the as a statutory type double patenting rejection under 35 U.S.C. 101,

In addition, the Examiner has provisionally rejected Claims 1-3, 7-11 and 18 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 9 of Heintzelman et al. co-pending application No. 11/170,484. The Examiner contends that the claims, while not identical are not patentably distinct. Applicant is confused by this rejection. On May 16, 2005 the

Examiner mailed an Office Action in this case (Application serial no. 10/678,562) setting forth a requirement for restriction requiring restriction to one of the following groups;

“The Examiner has required restriction to one of the following groups;

- I. Claims 1-3, 7-11, and 18, in part, drawn to compounds/compositions of formula (1), wherein the variables X, R₃ or R₄ independently does not represent heteroaryl or heterocyclyl thereof, variable X, R₃ or R₄ independently is not substituted with heteroaryl or heterocyclyl, i.e., any two of variables R₁₀ – R₂₃ do not form a heterocycle or heteroaryl ring; the heteroaryl or heterocyclyl of variable R₂ represents furyl, pyridyl, thiazole thereof; classified in class 514/544 with various subclasses. If this group is elected, applicants are requested to elect a single species for the search purpose.
- II. Claims 1-3, 7-11, and 18, in part, drawn to compounds/ compositions of formula (1), containing compounds not encompassed in Group 1, classified in class 514/540/544/546/548 with various subclasses. If this group is elected, applicants are requested to elect a single species for the search purpose. This group may be subject further restriction if it is elected.
- III. Claims 1, 4-6, 12-18, in part, drawn to compounds/compositions of formula (II), wherein the variables X, R₁ or R₃ independently does not represent heteroaryl or heterocyclyl, variables X, R₁ or R₃ independently is not substituted with heteroaryl or heterocyclyl, i.e., any two of variables R₇ or R₁₄ do not form a heterocycle or heteroaryl; the heteroaryl or heterocyclyl of variable R₂ represents furyl, pyridyl, thiazole thereof; classified in class 514/546 with various subclasses. If this group is elected, applicants are requested to elect a single species for the search purpose.
- IV. Claims 1, 4-6, 12-18, in part, drawn to compounds/compositions of formula (II), containing compounds not encompassed in Group III, classified in class 514/540/544/546/548 with various subclasses. If this group is elected, applicants are requested to elect a single species for the search purpose. This group may be subject further restriction if it is elected.

- V. Claims 19-26, in part, drawn to methods of use of compounds of formula (I) (i.e., treating Parkinson's disease), classified in class 514 with various subclasses. If this group is elected, applicants are requested to elect a single species for the search purpose. This group may be subject further restriction if it is elected.
- VI. Claims 19-26, in part, drawn to methods of use of compounds of formula (II) (i.e., treating Parkinson's disease), classified in class 514 with various subclasses. If this group is elected, applicants are requested to elect a single species for the search purpose. This group may be subject further restriction if it is elected."

In response to the above restriction requirement the Applicants provisionally elected Group II, including Claims 1-3, 7-11 and 18 in part, to pursue in the present application. In addition, for search purposes, the Applicants elected the single species shown as example No. 53 in Table 1 on page 30. Applicants reserved the right to file divisional applications to pursue the remaining unelected subject matter and, in fact, the Applicant filed divisional applications to each of the unelected groups defined above.

Applicants therefore cancelled claims 4-6, 12-17 and 19-26 which were directed to unelected subject matter. Applicants also amended Claim 1 to comply with the requirements of Group II as defined above by the Examiner, i.e., drawn to compounds/compositions of formula (1) not encompassed in Group 1. Applicants believed that this had been accomplished by adding two provisos to the genus description; one proviso being that one or more of variables; X, R₃ or R₄ must be, or must be substituted with, heteroaryl or heterocyclyl and a second proviso requiring that the heteroaryl or heterocyclyl of R₂ must not be furyl, pyridyl or thiazole. The Applicants believed that these changes defined the compounds of Group II in a manner that was mutually exclusive from the compounds of Group I as required by the Examiners restriction requirement.

The Applicants then filed a divisional application to pursue claims to the unelected Group I compounds and this application became co-pending application No. 11/170,484. Therefore, it is unclear to the Applicant how there can be a rejection of Claims 1-3, 7-11 and 18 of the instant application under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 9 of Heintzelman et al. co-pending application No. 11/170,484 since the Applicant believes that these two groups of claims are mutually exclusive and were divided up as a result of a restriction requirement.

Therefore the Applicant respectfully requests that the obviousness-type double patenting rejection be withdrawn or, if Applicant has misunderstood the mutual exclusivity of the compounds of Group I and Group II, then Applicant requests that the

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provisional obviousness-type double patenting rejection be held in abeyance until patentable subject matter has been determined.

Finally, the Examiner objects to claims 1-3, 7-11 and 18 as containing non-elected subject matter. The Applicant requests that this objection also be held in abeyance until the above issue has been resolved.

Respectfully submitted,

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